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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,680	10/17/2003	Alfonso Losada	SST/1306	9353
498	7590	06/18/2007		
JAMES R. CYPHER 405 14TH STREET SUITE 1607 OAKLAND, CA 94612			EXAMINER CHUKWURAH, NATHANIEL C	
			ART UNIT 3721	PAPER NUMBER
			MAIL DATE 06/18/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/687,680

Applicant(s)

LOSADA, ALFONSO

Examiner

Nathaniel C. Chukwurah

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5/30/2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 1-24 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 26-29 is/are allowed.
- 6) ☒ Claim(s) 25,30 and 31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>5/30/2007</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/30/2007 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

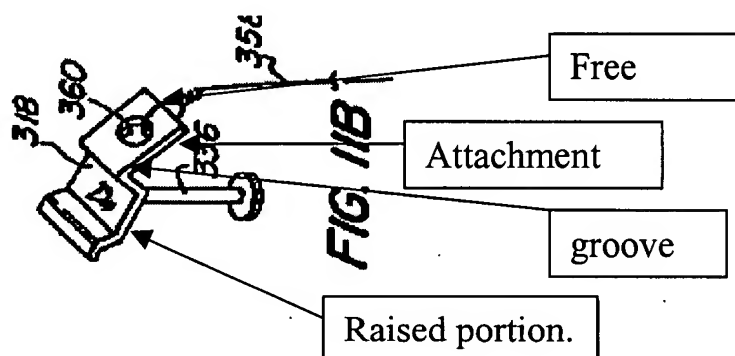
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 25 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Losada (6,273,316).

With regard to claim 25, the reference of Losada discloses a fastener assembly feeding system (Fig. 11A) for use with a power actuated gun (10) comprising: a fastener assembly (318, 336) comprising a curved plate (318), the plate having a raised portion (see Fig. below) and a stud (336) frictionally held

within the plate (318) at the raised portion, the curved plate (318) further having an attachment leg (see Fig. below) angularly attached to the curved plate (318), the attachment leg having a free edge (see Fig. below) away from where the attachment leg is attached to the curved plate (318); a track (316) adapted to receive the curved plate (318), the track (316) shaped to conformed with the curved shape of the plate in such a way as to allow the plate to move within the track, and to closely receive substantially all the curved plate (318) on both sides of the raised portion as shown in Figure 11A, except at the raised portion of the plate moving along a slot provided on the track (see Fig. 1 for example), which allows the raised portion to move along the track without interference, and the stud is held within the plate, the track (316) also being shaped to closely receive the plate (318) where the plate joins with the attachment leg (see Fig. 11B), but not shaped to closely receive the plate at the free edge of the attachment leg as shown in Figure 11A; and a plurality of fastener (318) assemblies are guided along the track (316).



With regard to claim 31, the reference of Losada discloses a fastener assembly feeding system (Fig. 11A) for use with a power actuated gun (10) comprising: a fastener assembly (318, 336) comprising a curved plate (318), the plate having a raised portion (see Fig. below) and a stud (336) frictionally-held within the plate (318); a track (316) adapted to receive the curved plate (318), the track (316) shaped to conformed with the curved shape of the plate in such a way as to allow the plate to move within the track, and to match the contour in such a way as to allow the plate to move within the track and closely receive substantially all the curved plate (318) along the first top side of the curved plate and along the second bottom side of the curved plate on both sides of the stud as shown in Figure 11A, except adjacent the stud and free edge; and a plurality of fastener (318) assemblies are guided along the track (316).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Losada (6,273,316).

With regard to claim 30, Losada reference discloses the claimed subject matter except for a reference to the bending radius of the curved plate. The bending radius of either the present invention or the prior art curved plate, is an engineering design consideration because of the track spacing to accommodate the curved plate. However, it would have been obvious engineering design choice to one skilled in the art at the time of the invention to modify the bending radius of the curved plate as desired in order to be accommodated in the track with less interference.

Allowable Subject Matter

6. Claims 26-29 are allowed over prior art of record.

Response to Arguments

7. Applicant's remarks filed 5/30/2007 have been fully considered but they are not persuasive.

With respect to claims 25, applicant argues that the angled track in Losada '316 track (316) are not "shaped to conform with the curved shape of the plate"

The Examiner contends that the track (316) is clearly shaped to conform with the curved shape of the plate (318) in such a way as to allow the plate to move

within the track, with no interference, for example, the track accommodates the curved plate as to permit the free movement of the curved plate and stud.

Therefore the disclosure of Losada meets the claim 25 as rejected above. The examiner made the rejection based on the broadest interpretation of claim limitation. The track spacing matches the curved plate's contour so as to allow free movement of the curved plate in the track.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathaniel C. Chukwurah whose telephone number is (571) 272-4457. The examiner can normally be reached on M-F 6:00AM-2:30PM.

9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NC

June 6, 2007.

A handwritten signature in black ink, appearing to read 'Rinaldi I. Rada', with a stylized, flowing script.

Rinaldi I. Rada
Supervisory Patent Examiner
Group 3700